

1                           A bill to be entitled  
2       An act relating to substance abuse and mental health;  
3       amending s. 394.455, F.S.; revising the definition of  
4       the term "mental illness" to exclude conditions  
5       manifested by dementia or traumatic brain injury;  
6       amending s. 394.9085, F.S.; conforming a cross-  
7       reference; amending s. 397.311, F.S.; revising  
8       definitions; amending s. 397.4012, F.S.; revising  
9       entities that are exempt from certain licensing  
10      requirements; amending s. 397.4073, F.S.; providing an  
11      exemption from background screening requirements for  
12      certain peer specialists; amending s. 916.106, F.S.;  
13      revising a definition; amending ss. 916.13 and 916.15,  
14      F.S.; authorizing jails to share medical information  
15      pertaining to specified defendants to the Department  
16      of Children and Families; requiring the maintenance of  
17      psychotropic medications to specified defendants under  
18      certain circumstances; providing an exception;  
19      providing an effective date.

20  
21   Be It Enacted by the Legislature of the State of Florida:

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23       Section 1. Subsection (28) of section 394.455, Florida  
24   Statutes, is amended to read:

25       394.455 Definitions.—As used in this part, the term:

(28) "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by dementia, traumatic brain injury, antisocial behavior, or substance abuse.

Section 2. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(26)(a)3. ~~ss. 397.311(26)(a)4.~~, 397.311(26)(a)1., and 394.455(39), respectively.

Section 3. Paragraph (a) of subsection (26) of section 397.311, Florida Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(26) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:

51           (a) "Clinical treatment" means a professionally directed,  
52 deliberate, and planned regimen of services and interventions  
53 that are designed to reduce or eliminate the misuse of drugs and  
54 alcohol and promote a healthy, drug-free lifestyle. As defined  
55 by rule, "clinical treatment services" include, but are not  
56 limited to, the following licensable service components:

57           1. "Addictions receiving facility" is a secure, acute care  
58 facility that provides, at a minimum, detoxification and  
59 stabilization services; is operated 24 hours per day, 7 days per  
60 week; and is designated by the department to serve individuals  
61 found to be substance use impaired as described in s. 397.675  
62 who meet the placement criteria for this component.

63           2. "Day or night treatment" is a service provided in a  
64 nonresidential environment, with a structured schedule of  
65 treatment and rehabilitative services.

66           ~~3. "Day or night treatment with community housing" means a~~  
67 ~~program intended for individuals who can benefit from living~~  
68 ~~independently in peer community housing while participating in~~  
69 ~~treatment services for a minimum of 5 hours a day for a minimum~~  
70 ~~of 25 hours per week.~~

71           3.4. "Detoxification" is a service involving subacute care  
72 that is provided on an inpatient or an outpatient basis to  
73 assist individuals to withdraw from the physiological and  
74 psychological effects of substance abuse and who meet the  
75 placement criteria for this component.

76        ~~4.5.~~ "Intensive inpatient treatment" includes a planned  
77 regimen of evaluation, observation, medical monitoring, and  
78 clinical protocols delivered through an interdisciplinary team  
79 approach provided 24 hours per day, 7 days per week, in a highly  
80 structured, live-in environment.

81        ~~5.6.~~ "Intensive outpatient treatment" is a service that  
82 provides individual or group counseling in a more structured  
83 environment, is of higher intensity and duration than outpatient  
84 treatment, and is provided to individuals who meet the placement  
85 criteria for this component.

86        ~~6.7.~~ "Medication-assisted treatment for opioid use  
87 disorders ~~opiate addiction~~" is a service that uses methadone or  
88 other medication as authorized by state and federal law, in  
89 combination with medical, rehabilitative, supportive, and  
90 counseling services in the treatment of individuals who are  
91 dependent on opioid drugs.

92        ~~7.8.~~ "Outpatient treatment" is a service that provides  
93 individual, group, or family counseling by appointment during  
94 scheduled operating hours for individuals who meet the placement  
95 criteria for this component.

96        ~~8.9.~~ "Residential treatment" is a service provided in a  
97 structured live-in environment within a nonhospital setting on a  
98 24-hours-per-day, 7-days-per-week basis, and is intended for  
99 individuals who meet the placement criteria for this component.

100        Section 4. Section 397.4012, Florida Statutes, is amended

101 to read:

102        397.4012 Exemptions from licensure.—The following are  
103 exempt from the licensing provisions of this chapter:

104        (1) A hospital or hospital-based component licensed under  
105 chapter 395.

106        (2) A nursing home facility as defined in s. 400.021.

107        (3) A substance abuse education program established  
108 pursuant to s. 1003.42.

109        (4) A facility or institution operated by the Federal  
110 Government.

111        (5) A physician or physician assistant licensed under  
112 chapter 458 or chapter 459.

113        (6) A psychologist licensed under chapter 490.

114        (7) A social worker, marriage and family therapist, or  
115 mental health counselor licensed under chapter 491.

116        (8) A legally cognizable church or nonprofit religious  
117 organization or denomination providing substance abuse services,  
118 including prevention services, which are solely religious,  
119 spiritual, or ecclesiastical in nature. A church or nonprofit  
120 religious organization or denomination providing any of the  
121 licensed service components itemized under s. 397.311(26) is not  
122 exempt from substance abuse licensure but retains its exemption  
123 with respect to all services which are solely religious,  
124 spiritual, or ecclesiastical in nature.

125        (9) Facilities licensed under chapter 393 which, in

126 addition to providing services to persons with developmental  
127 disabilities, also provide services to persons developmentally  
128 at risk as a consequence of exposure to alcohol or other legal  
129 or illegal drugs while in utero.

130 (10) DUI education and screening services provided  
131 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.  
132 Persons or entities providing treatment services must be  
133 licensed under this chapter unless exempted from licensing as  
134 provided in this section.

135 (11) A facility licensed under s. 394.875 as a crisis  
136 stabilization unit.

137  
138 The exemptions from licensure in subsections (3), (4), (8), (9),  
139 and (10) ~~this section~~ do not apply to any service provider that  
140 receives an appropriation, grant, or contract from the state to  
141 operate as a service provider as defined in this chapter or to  
142 any substance abuse program regulated under ~~pursuant to~~ s.  
143 397.4014. Furthermore, this chapter may not be construed to  
144 limit the practice of a physician or physician assistant  
145 licensed under chapter 458 or chapter 459, a psychologist  
146 licensed under chapter 490, a psychotherapist licensed under  
147 chapter 491, or an advanced practice registered nurse licensed  
148 under part I of chapter 464, who provides substance abuse  
149 treatment, so long as the physician, physician assistant,  
150 psychologist, psychotherapist, or advanced practice registered

151 nurse does not represent to the public that he or she is a  
152 licensed service provider and does not provide services to  
153 individuals under ~~pursuant to~~ part V of this chapter. Failure to  
154 comply with any requirement necessary to maintain an exempt  
155 status under this section is a misdemeanor of the first degree,  
156 punishable as provided in s. 775.082 or s. 775.083.

157 Section 5. Subsection (14) of section 916.106, Florida  
158 Statutes, is amended to read:

159 916.106 Definitions.—For the purposes of this chapter, the  
160 term:

161 (14) "Mental illness" means an impairment of the emotional  
162 processes that exercise conscious control of one's actions, or  
163 of the ability to perceive or understand reality, which  
164 impairment substantially interferes with the defendant's ability  
165 to meet the ordinary demands of living. For the purposes of this  
166 chapter, the term does not apply to defendants who have only an  
167 intellectual disability or autism or a defendant with traumatic  
168 brain injury or dementia who lacks a co-occurring mental  
169 illness, and does not include intoxication or conditions  
170 manifested only by antisocial behavior or substance abuse  
171 impairment.

172 Section 6. Paragraph (b) of subsection (2) of section  
173 916.13, Florida Statutes, is amended to read:

174 916.13 Involuntary commitment of defendant adjudicated  
175 incompetent.—

176 (2) A defendant who has been charged with a felony and who  
177 has been adjudicated incompetent to proceed due to mental  
178 illness, and who meets the criteria for involuntary commitment  
179 under this chapter, may be committed to the department, and the  
180 department shall retain and treat the defendant. Immediately  
181 after receipt of a completed copy of the court commitment order  
182 containing all documentation required by the applicable Florida  
183 Rules of Criminal Procedure, the department shall request all  
184 medical information relating to the defendant from the jail. The  
185 jail shall provide the department with all medical information  
186 relating to the defendant within 3 business days after receipt  
187 of the department's request or at the time the defendant enters  
188 the physical custody of the department, whichever is earlier.

189 (b) A competency hearing shall be held within 30 days  
190 after the court receives notification that the defendant is  
191 competent to proceed or no longer meets the criteria for  
192 continued commitment. The defendant must be transported to the  
193 committing court's jurisdiction for the hearing. When  
194 prescribing psychotropic medications for the defendant, the  
195 department physician shall consult with the jail physician on  
196 the jail's drug formulary and consider prescribing medication  
197 included in the jail's drug formulary to ensure continuity of  
198 care. Each defendant returning to a jail shall continue to  
199 receive the same psychotropic medications as prescribed by the  
200 facility physician at the time of discharge from a forensic or



201 civil facility, unless the jail physician determines there is a  
202 compelling medical reason to change or discontinue the  
203 medication. If the jail physician changes or discontinues the  
204 medication and the defendant is later determined at the  
205 competency hearing to be incompetent to stand trial and is  
206 recommitted to the department, the jail physician may not change  
207 or discontinue the defendant's prescribed psychotropic  
208 medication upon the defendant's next discharge from the forensic  
209 or civil facility.

210 Section 7. Subsections (3) and (5) of section 916.15,  
211 Florida Statutes, are amended to read:

212 916.15 Involuntary commitment of defendant adjudicated not  
213 guilty by reason of insanity.—

214 (3) Every defendant acquitted of criminal charges by  
215 reason of insanity and found to meet the criteria for  
216 involuntary commitment may be committed and treated in  
217 accordance with the provisions of this section and the  
218 applicable Florida Rules of Criminal Procedure. Immediately  
219 after receipt of a completed copy of the court commitment order  
220 containing all documentation required by the applicable Florida  
221 Rules of Criminal Procedure, the department shall request all  
222 medical information relating to the defendant from the jail. The  
223 jail shall provide the department with all medical information  
224 relating to the defendant within 3 business days after receipt  
225 of the department's request or at the time the defendant enters

226 the physical custody of the department, whichever is earlier.

227 The department shall admit a defendant so adjudicated to an  
228 appropriate facility or program for treatment and shall retain  
229 and treat such defendant. No later than 6 months after the date  
230 of admission, before ~~prior to~~ the end of any period of extended  
231 commitment, or at any time the administrator or designee  
232 determines ~~shall have determined~~ that the defendant no longer  
233 meets the criteria for continued commitment placement, the  
234 administrator or designee shall file a report with the court  
235 pursuant to the applicable Florida Rules of Criminal Procedure.

236 (5) The commitment hearing shall be held within 30 days  
237 after the court receives notification that the defendant no  
238 longer meets the criteria for continued commitment. The  
239 defendant must be transported to the committing court's  
240 jurisdiction for the hearing. When prescribing psychotropic  
241 medications for the defendant, the department physician shall  
242 consult with the jail physician on the jail's drug formulary and  
243 consider prescribing medication included in the jail's drug  
244 formulary to ensure continuity of care. Each defendant returning  
245 to a jail shall continue to receive the same psychotropic  
246 medications as prescribed by the facility physician at the time  
247 of discharge from a forensic or civil facility, unless the jail  
248 physician determines there is a compelling medical reason to  
249 change or discontinue the medication. If the jail physician  
250 changes or discontinues the medication and the defendant is

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251   later determined at the competency hearing to be incompetent to  
252   stand trial and is recommitted to the department, the jail  
253   physician may not change or discontinue the defendant's  
254   prescribed psychotropic medication upon the defendant's next  
255   discharge from the forensic or civil facility.

256       Section 8.   This act shall take effect July 1, 2020.